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REMARKS

The above Amendments and these Remarks are submitted under 35 U.S.C. § 132 and 37 C.F.R. §§ 1.111 and 1.114 in response to the final Office Action mailed July 23, 2007.

Summary of the Examiner's Action and Applicant's Response

Claims 1-15, 18-25, and 30-55 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner has again rejected Claims 1-15, 19-25, 31-32, 34-36, 38-39, 42-45, 50-51, and 54-55 under 35 U.S.C. § 102(e) as being anticipated by Estipona (U.S. Patent No. 6,795,973). Claims 18, 30, 33, 37, 40-41, 46-49, and 52-53 have again been rejected under 35 U.S.C. 103(a) as being obvious based on Estipona. Applicant respectfully traverses the rejections.

In this Amendment, Applicant has amended Claims 5 and 36. Claims 13 and 14 have been cancelled. After entry of this Amendment, Claims 1-12, 15, 18-25, and 30-55 are pending.

Response to Rejection of Claims 1-15, 18-25, and 30-55 were rejected under 35 U.S.C. § 112

Claims 1-15, 18-25, and 30-55 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants have amended Claims 5 and 36 to make these claims more clear.

The Examiner stated on page 3 of the final Office Action that:

"Regarding 'a second channel' through out the claims, the applicant admits that 'the second channel' which is not limited to 'a television channel' (see Remarks, page labeled 'page 9') but then the applicant is totally silent the 'channel' referred to which system and/or to what extent -in those claiming languages.

The terms such as 'a first channel', 'a second channel', 'a first frequency', 'a second frequency' etc. in the claims (which understood claiming to be parts of any system) are relative terms which renders the claim indefinite. The terms are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention." (Emphasis added).

Applicant respectfully submits that, contrary to the Examiner's statement above, the terms "a first channel", "a second channel", "a first frequency", and "a second frequency" are not relative terms. (See M.P.E.P. § 2173.05(b) Relative Terminology). Applicant respectfully submits that, as described in M.P.E.P. § 2173.05(b), relative terminology includes "terms of degree", e.g., about,

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essentially, similar, etc. Applicant respectfully submits that the terms "a first channel", "a second channel", "a first frequency", and "a second frequency" contain no such "terms of degree", and therefore, these terms are not relative terms which render the claim indefinite.

"If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993). However, if the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112, second paragraph, rather, the examiner should suggest improved language to the applicant." (M.P.E.P. § 2173.02). Applicant respectfully submits that "a second channel", as claimed in Claim 1, is employed for transmitting enhancement data. A first television channel is employed for transmitting something different, that is, at least one trigger and a video program. Applicant respectfully submits that enhancement data and at least one trigger are two different elements, as would be appreciated by one skilled in the art. Further, Applicant respectfully submits, for example, that a second channel for transmitting enhancement data is described in the specification, according to one embodiment, as being an OOB signaling channel that is not a television channel. (See page 4, lines 12-15 and page 6, lines 16-19). Applicant respectfully submits that a person of ordinary skill in the art could interpret the metes and bounds of the claim so as to understand how to avoid infringement, therefore, "a second channel" is definite. Further, "a first channel", "a first television channel", "a first frequency", and "a second frequency" in the claims are respectfully submitted as being definite at least because a person of ordinary skill in the art could interpret the metes and bounds of the claim so as to understand how to avoid infringement.

For the above reasons, Applicant respectfully submits that Claim 1 is definite. Claim 2-12, 15, 18-25, and 30-33 depend from Claim 1 and are thus respectfully submitted as being definite for the same reasons given for Claim 1. Further, Claim 5 has been amended to further clarify the claim. Applicant respectfully submits that Claim 5 is definite to this additional reason. Applicant respectfully submits that Claim 34 is definite for the reasons given above. Claims 35-44 depend from Claim 34 and are thus respectfully submitted as being definite for the same reasons given for Claim 34. Further, Applicant respectfully submits that Claim 36 has been amended to further

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clarify the claim. Applicant respectfully submits that Claim 36 is definite to this additional reason. Claims 46-55 depend from Claim 45 and are thus respectfully submitted as being definite for the reasons given above for Claim 45.

**Response to Rejection of Claims 15, 19-25, 31-32, 34-36, 38-39,
42-45, 50-51, and 54-55 under 35 U.S.C. § 102(e)**

In response to Applicant's arguments in the last response, the Examiner stated that:

"Applicant argues that the examiner quotes Fig. 2 of Estipona and corresponding paragraphs in the previous office action related to 'television channel', and applicant's application is not limited to a 'television channel.' Then, looking back the claims, the examiner is quite unclear which system the applicant is addressing about; and the claims are clearly under 35 USC 112 (see the following section)."

Applicant has addressed the rejection under 35 U.S.C. § 112 in the previous section of this amendment. Applicant has cancelled Claims 13 and 14.

The Examiner further stated that:

"Therefore, the examiner respectfully disagrees with the applicant's argument and stands with the teaching of Estipona's reference, not limited to the cited paragraphs from the examiner but also to the entire reference of Estipona, whether it is inherently, suggesting, teaching and/or disclosing a feature(s) which can be read on any claiming feature of the present application." Applicant respectfully disagrees.

Further, regarding Claim 1, the Examiner stated on page 4 of the final Office Action that:

"In regard to claim 1, Estipona discloses a method and apparatus for delivering enhancement data over a separate delivery mechanism. The claimed steps of "transmitting a video program and at least one trigger employing a first television channel operating at a first frequency" and "transmitting enhancement data employing a second television channel operating at a second frequency" are met (as shown in Figs. 1 & 4 and col. 3/line 45 to col. 4/line 28 as the video and at least one trigger are transmitted in transport type A employing television service or broadcast channels; and the enhancement data employing a second television channel operating at a second frequency is admitted as prior art in the conventional NTSC frequency map of Fig. 2, refer to specs, page 3/line 23 to page 4/line 21)." Applicant respectfully disagrees.

Firstly, Applicant respectfully submits that for the invention as claimed in Claim 1, the triggers and the enhancement data are not the same, but are separate and are broadcast on separate channels. That is, "a video program and at least one trigger" are transmitted "employing a first

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television channel operating at a first frequency", as claimed in Claim 1. Applicant respectfully submits that "enhancement data" is transmitted employing a second channel, i.e., a different channel. Thus, Applicant respectfully submits that the at least one trigger is broadcast on the first channel, whereas enhancement data is broadcast on a second channel, as claimed in Claim 1. That is, triggers and enhancement data are broadcast on separate channels, with triggers broadcast on a television channel operating at a first frequency and enhancement data is broadcast on a separate second channel operating at a second frequency, as claimed in Claim 1. Further, Applicant respectfully submits that the at least one trigger is transmit along with a video program, employing a first channel, as claimed in Claim 1.

Applicant respectfully submits that, although Estipona teaches transmitting a trigger and along with an audio/visual stream (Col. 3, lines 45-47), Applicant respectfully submits that Estipona does not teach or suggest transmitting triggers and enhancement data on separate channels, as claimed in Claim 1. Applicant respectfully submits that the admitted prior art FIG. 2 shows an NTSC frequency map, however, FIG. 2 does not teach or suggest transmitting triggers and enhancement data on separate channels, as claimed in Claim 1.

Applicant respectfully submits that there is no teaching or suggestion in Estipona and Applicant's admitted prior art Fig. 2, either singly or in combination, of transmitting the triggers and enhancement data on separate channels, as claimed in Claim 1. More specifically, Applicant respectfully submits that there is no teaching or suggestion in Estipona and Applicant's admitted prior art Fig. 2, either singly or in combination, of transmitting at least one trigger along with a video program on a first channel along operating at a first frequency corresponding to a television service channel, and transmitting the enhancement data on a separate second channel, as claimed in Claim 1.

Further, Applicant respectfully submits that the applied references do not teach or suggest such transmitting of triggers and enhancement data on separate channels, wherein the at least one trigger is transmitted on a first television channel operating at a first frequency, and the enhancement data is transmitted on a separate second channel, as claimed in Claim 1. Moreover, Applicant respectfully submits that there is no teaching or suggestion in Estipona and Applicant's admitted prior art Fig. 2, either singly or in combination, of broadcasting the triggers and enhancement data on separate channels, where the triggers are broadcast along with a video program on a first channel operating at a first frequency corresponding to a television service

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channel, as claimed in Claim 1.

For all of the above reasons, Applicant respectfully submits that Claim 1 is not anticipated by Estipona and is non-obvious based on Estipona and Applicant's admitted prior art Fig. 2.

Further, Applicant respectfully submits further that the Examiner has improperly cited multiple references in the anticipation rejection, i.e., both Estipona and Applicant's admitted prior art Fig. 2.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (M.P.E.P. §2131 quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). (Emphasis added).

Applicant respectfully submits that, although there are exceptions specified in M.P.E.P. § 2131.01 wherein multiple references can properly be cited in an anticipation rejection under § 102, however those exceptions do not apply here for at least the reasons given in Applicant's last response. Should the Examiner maintain the current rejection, Applicant respectfully requests that the Examiner identify the specific exception the Examiner believes applies to justify the anticipation rejection based on multiple references in order to give Applicant an opportunity to respond to any such purported basis.

Claims 2-12, 15, 19-25, 31, and 32 depend directly or indirectly from Claim 1 and thus are respectfully submitted as not being anticipated and not being obvious, based on Estipona and Applicant's admitted prior art Fig. 2, either singly or in combination, for the reasons given for Claim 1 above.

Further regarding Claim 3, Applicant respectfully submits that Estipona does not teach or suggest a method transmitting a video program and triggers on a first channel and transmitting enhancement data on a second channel, utilizing only a portion of the second channel, as claimed in Claim 3. Applicant respectfully submits that Claim 3 is not anticipated by Estipona for this additional reason.

Claim 34 is a system counterpart to Claim 1. Applicant respectfully submits, therefore, that Claim 34 is not anticipated by Estipona for the same reasons given above for Claim 1. Claims 35, 36, 38, 39, and 42-44 depend directly or indirectly from Claim 34, and thus are respectfully submitted as not being anticipated by Estipona for the same reasons given above for Claim 34.

Claim 45 is a receiver counterpart to Claim 1. Applicant respectfully submits, therefore,

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that Claim 45 is not anticipated by Estipona for the same reasons given above for Claim 1. Claims 50, 51, 54, and 55 depend directly or indirectly from Claim 45 and thus are respectfully submitted as not being anticipated by Estipona for the same reasons given above for Claim 45. Further, Applicant respectfully submits that these claims are also non-obvious based on Estipona and Applicant's admitted prior art Fig. 2, either singly or in combination, for the reasons given for Claim 1 above.

**Response to the Rejection of Claims 18, 30, 33, 37, 40-41, 46-49,
and 52-53 under 35 U.S.C. § 103(a)**

The Examiner has rejected Claims 18, 30, 33, 37, 40-41, 46-49, and 52-53 under 35 U.S.C. § 103(a) as being obvious based on Estipona. Claims 18, 30, and 33 depend directly or indirectly from Claim 1, and thus are respectfully submitted as being non-obvious based on Estipona for the same reasons given above for Claim 1.

Claims 37, 40, and 41 depend directly or indirectly from Claim 34 and thus are respectfully submitted as being non-obvious based on Estipona for the same reasons given above for Claim 34.

Claims 46-49, 52, and 53 depend directly or indirectly from Claim 45 and thus are respectfully submitted as being non-obvious based on Estipona for the same reasons given above for Claim 45.

Conclusion

For the above reasons, Applicant respectfully submits that all pending claims, Claims 1-12, 15, 18-25, and 30-55 in the present application are allowable. Such allowance is respectfully solicited.

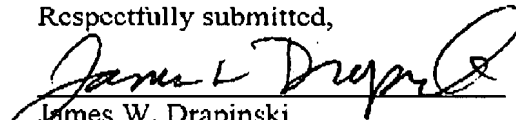
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If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 984-8200.

Respectfully submitted,


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